

CALIFORNIA STATE PERSONNEL BOARD MEETING  
Marina del Rey Hotel  
13534 Bali Way  
Marina del Rey, California 90292  
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[www.spb.ca.gov](http://www.spb.ca.gov)

Public Session Location - Marina Room  
Closed Session Location - Marina Room

FULL BOARD MEETING MINUTES

OCTOBER 2, 2001

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President  
William Elkins, Vice President  
Florence Bos, Member  
Richard Carpenter, Member  
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The California State Employees Association (CSEA) has expressed concern to the State Personnel Board (SPB) regarding what it believes are inappropriate contracting out of civil service work in a number of state departments.

- B. SPB staff was advised that the Department of Personnel Administration has negotiated a seniority based "post and promote" system for a variety of state classes.
- C. SPB staff is working on revisions to the military leave manual.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation:

- A. County of Merced v. State Personnel Board (SPB) (Gabriault) - Petition for writ filed on this SPB decision. SPB will consider whether to participate in the litigation.
- B. International Union of Operating Engineers (IUOE) v. State of California (State Personnel Board) - The Public Employment Relations Board has granted SPB's motion to dismiss the complaint issued in this matter on the grounds that the SPB is not acting as the state employer when it reviews settlement agreements submitted to it for approval by IUOE members who are not employed by the SPB.
- C. McDowell v State Personnel Board (California Department of Corrections) - Court sustained SPB's ruling sustaining salary reduction in this case.
- D. State Personnel Board v. Department of Personnel Administration, International Union of Operating Engineers - Superior Court quashed subpoenas served by IUOE in this matter and denied IUOE's motion in limine at a September 21, 2001 hearing. The Court took the merits of the SPB's action, challenging the Unit 11, 12 and 13 MOU provisions that provide for arbitration of discipline, under submission.
- E. Connerly v. State Personnel Board, et al. - To date, no one has filed a petition for reconsideration with the Court of Appeal nor a petition for review with the California Supreme Court.

- F. Office of State Controller v. Public Employment Retirement System (PERS) - Court issued a tentative ruling that Proposition 162 does not exempt PERS from civil service rules regarding exempt appointments. Chief Counsel will keep SPB informed of further details and developments.

Ethics Issues

- A. The Governor's advisor on ethics, in responding to a question put to him by one of the ethics officers, stated that employees who accumulate frequent flyer miles while travelling on state business should not use them for their own use.

4. REPORT ON LEGISLATION - Judy Balmain

The State Personnel voted on the following:

- A. The State Personnel Board (SPB) voted to approve the legislative agenda presented by staff for the 2002 legislative session. Mr. Carpenter recommended that the language proposed for the Information Technology proposal be revised, with that revision the Board moved for approval.  
VOTE: Alvarado, Bos, Carpenter, Elkins, Harrigan - Aye.

The Board was advised of the following:

- A. The deadline for the Governor to sign or veto legislation is October 14, 2001.
- B. The Governor has signed four bills, (AB 906, AB 933 AB606 and AB 649) ratifying the States agreement with eight (8) of the State's employee unions and extending the pay package to cover all excluded employees. To date, the State has been unable to reach agreement with the twelve (12) remaining bargaining units.
- C. SPB staff has not seen the final language in the MOU's, so at this point it is difficult to assess the impact on SPB programs.

5. PERS UPDATE - SPB Board Member Sean Harrigan

The Board was advised of the following:

- A. The Public Employment Retirement System (PERS) is looking for solutions to provide health care coverage to members in those rural counties where the HMO's have terminated services.
- B. PERS is also looking for solutions to the under-funding of PERS Care and PERS Choice.
- C. Direct contracting for health care is still being pursued especially in those under-served rural areas.
- D. PERS is seeking reconsideration of an adverse ruling by the Superior Court on the scope of authority provided by Proposition 162. In the event reconsideration is denied, PERS has also requested a stay until the matter is reviewed by the Court of Appeal.
- E. Because PERS is a long-term investor, it does not believe that the current down turn of the market will jeopardize any beneficiaries. PERS believes that the fund is in good shape and it's investment strategy is sound.

6. ORAL ARGUMENT

Oral argument in the matter of NATHAN A. LOMELI, CASE NO. 00-3937. Appeal from dismissal. Department of Corrections.

Persons Participating:

Cinda Cane, Staff Counsel, representing Department of Corrections

Timothy Talbot, Attorney at Law, Carroll, Burdick & McDonough, LLP, representing appellant

ACTION: On October 2, 2001, Board adopted the Administrative Law Judge's decision, revoking the dismissal.

VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.

7. ORAL ARGUMENT

Appeal of GERARDO Z. HERNANDEZ, CASE NO. 00-3706. Appeal from five-percent reduction in salary for six months. Department of Corrections.

Persons Participating:

Chris Uyemura, Staff Legal Counsel, California Correctional Peace Officers Association, representing appellant

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of RONALD GONZALES, CASE NO. 01-0220. Appeal from 15 working days suspension. Department of California Highway Patrol.

Persons Participating:

John Markey, Labor Representative, representing California Highway Patrol

Ashante' L. Norton, Deputy Attorney General, Department of Justice, representing appellant

ACTION: Submitted

BOARD ACTIONS

9. STATE PERSONNEL BOARD SUMMARY MINUTES OF SEPTEMBER 18, 2001

ACTION: Adopted on October 2, 2001.

VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.

10. ACTION ON SUBMITTED ITEMS

ACTION: See pages 15.

11. ADMINISTRATIVE LAW JUDGE CASES

On October 2, 2001, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.

REJECTED AND REMANDED DECISION

D. KIRK SANDEEN, CASE NO. 00-3024P

Appeal from constructive medical termination  
Janitor

Department of California Highway Patrol

ACTION: Submitted

CHIEF COUNSEL RESOLUTION

BETTY JO SMITH, CASE NO. 98-0119  
Appeal from dismissal  
Physician and Surgeon  
Agnews Developmental Center  
Department of Developmental Services

PROPOSED DECISIONS

RICHARD BAXTER, CASE NO. 01-0975  
Appeal from five-percent reduction  
in salary for six months  
Parole Agent I  
Department of Corrections  
ACTION: Five-percent reduction in salary for six months  
revoked

ANTONIO L. CASANOVA, CASE NO. 01-0249  
Appeal from dismissal  
Officer  
Department of California Highway Patrol  
ACTION: Dismissal sustained

ROBERTO E. GARAY, CASE NO. 01-1591  
Appeal from five-percent reduction  
in salary for six months  
Correctional Officer  
Imperial State Prison  
Department of Corrections  
ACTION: Five-percent reduction in salary for six months  
sustained

EILEEN HAMPTON, CASE NO. 01-1213  
Appeal from demotion  
Associate Information Systems Analyst Supervisor to  
Associate Governmental Program Analyst  
Wasco State Prison  
ACTION: Demotion from Associate Information Systems Analyst  
Supervisor to Associate Governmental Program Analyst  
sustained

LORI MILAMI, CASE NO. 01-1009  
Appeal from five-percent reduction  
in salary for five months

Business Services Officer I  
Department of California Highway Patrol  
ACTION: Five-percent reduction in salary for five months  
revoked

VICTOR C. VIZCARRA, CASE NO. 01-1792  
Appeal from five-percent reduction in  
salary for six months  
Correctional Officer  
Imperial State Prison  
Department of Corrections  
ACTION: Five-percent reduction in salary for six months  
sustained

RAUL RIOS, CASE NO. 00-0634  
Appeal from dismissal  
Program Technician II  
Department of Veterans Affairs  
ACTION: Dismissal modified to a suspension for 90 days

RAJIV KUMAR, SINGH, CASE NO. 99-5141  
Appeal from discrimination and retaliation  
in selection/appointment  
Postsecondary Education Specialist  
Department of Consumer Affairs  
ACTION: Dismissed discrimination and retaliation in  
selection/appointment

PETITIONS FOR REHEARING

THOMAS H. GRIFFIN, CASE NO. 00-2786P  
Appeal from dismissal  
Correctional Counselor II, Specialist  
Correctional Facility at Tehachapi  
Department of Corrections  
ACTION: Petition for rehearing filed by Appellant denied

DEANNA DAVIES, CASE NO. 99-0073P  
Appeal from determination of  
back salary, benefits,  
and interest after reinstatement  
Tax Technician I  
State Board of Equalization  
ACTION: Petition for rehearing filed by Appellant denied

JAMES C. FEE, CASE NO. 01-0706P  
Request to file charges and for  
whistleblower retaliation

Correctional Counselor II-Specialist  
Sierra Conservation Center  
Department of Corrections

ACTION: Petition for rehearing filed by Appellant denied

PETE REECE, CASE NO. 00-1605P  
Appeal from denial of request for  
reasonable accommodation  
Office Technician (General)

State Compensation Insurance Fund

ACTION: Petition for rehearing filed by Appellant granted

SVETOZAR STUKOVSKY, CASE NO. 99-3583P

Appeal from dismissal

Physician and Surgeon

Wasco State Prison

Department of Corrections

ACTION: Petition for rehearing filed by Respondent granted

CLYDE YOUNG, CASE NO. 00-4152P

Appeal from 90 calendar days suspension

Youth Correctional Counselor

Department of Youth Authority

ACTION: Petition for rehearing filed by Appellant denied

CHARLES ALEXANDER, CASE NO. 98-2768P

RICHARD NEWTON, CASE NO. 98-2769P

Appeal from whistleblower/retaliation

Complaint

Correctional Officers

Pelican Bay State Prison

Department of Corrections

ACTION: Petition for rehearing filed by Respondent denied

ROBERT DIAZ, CASE NO. 00-2230P

Appeal from dismissal

Officer

Department of California Highway Patrol

ACTION: Petition for rehearing filed by Respondent denied

PETITION FOR REHEARING, NOTICE OF FINDINGS

JAMES C. FEE, CASE NO. 01-0760P

Appeal from request to file charges and whistleblower  
retaliation

Correctional Counselor II (Specialist)

Department of Corrections

ACTION: Petition for rehearing filed by appellant denied



12. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 16-19.

13. WITHHOLD APPEALS

On October 2, 2001, the Board adopted the following decisions  
presented by Walter Vaughn, Executive Officer, California  
State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.

DURIE FOSTER, JR., CASE NO. 00-3855

Classification: Hospital Police Officer I

Department of Mental Health

ACTION: GRANTED

LAMARR ANDERSON, CASE NO. 01-0510

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

MICHAEL CARDOZA, CASE NO. 01-0267

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

MIKE CARNEY, CASE NO. 00-4310

Classification: Correctional Officer

Department of Corrections

ACTION: GRANTED

SAMANTHA CULLEN, CASE NO. 01-0528

Classification: Youth Correctional Counselor

Department of the Youth Authority

ACTION: WITHDRAWN

ORLANDO DENISON, CASE NO. 01-0555

Classification: Cadet, CHP

California Highway Patrol

ACTION: WITHDRAWN

ISAAC DIXON, CASE NO. 01-0324

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

HENRY A. PENA, CASE NO. 01-0014  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

MARCO QUEZADA, CASE NO. 01-0415  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: GRANTED

COREY ROCAMORA, CASE NO. 01-0328  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

KURT SANTORO, CASE NO. 01-0270  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

EDGAR TRACY, CASE NO. 01-0439  
Classification: Youth Correctional Officer  
Department of the Youth Authority  
ACTION: DENIED

JUAN URIBE, CASE NO. 01-0272  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: GRANTED

MYRENZO WHITTAKER, CASE NO. 01-0508  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

JOHN WILLIAMS, CASE NO. 01-0011  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: GRANTED

14. EXAMINATION APPEALS - NONE  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS

On October 2, 2001, the Board adopted the following decisions  
presented by Walter Vaughn, Executive Officer, California  
State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.

(Minimum Qualification)

ROMARICO SANTIAGO, CASE NO. 01-0908  
Classification: Accounting Officer Specialist  
Employment Development Department  
ACTION: GRANTED

(Merit Issue Complaint)

ANN M. BERGEN, CASE NO. 00-1793  
Classification: Office Technician (T)  
Department of General Services  
ACTION: WITHDRAWN

KENNETH E. DARNELL, CASE NO. 00-2637  
Classification: Correctional Sergeant  
Department of Corrections  
ACTION: DISMISSED

MARCO A. GUILIN, CASE NO. 00-2504  
Classification: Correctional Sergeant  
Department of Corrections  
ACTION: DISMISSED by Board, but in fact had been WITHDRAWN

HOWARD INGRAM, CASE NO. 00-2099  
Classification: Correctional Sergeant  
Department of Corrections  
ACTION: DISMISSED

RICHARD IVICEVICH, CASE NO. 00-2119  
Classification: Correctional Sergeant  
Department of Corrections  
ACTION: DISMISSED

EDWARD YETT, CASE NO. 00-2169  
Classification: Correctional Sergeant  
Department of Corrections  
ACTION: DISMISSED

15. RULE 212 OUT-OF-CLASS APPEALS - NONE  
VOIDED APPOINTMENT APPEALS  
RULE 211 APPEALS  
On October 2, 2001, the Board adopted the following decisions  
presented by Walter Vaughn, Executive Officer, California  
State Personnel Board.  
VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.

(Voided Appointment)

LOUIS VASSALLO, CASE NO. 01-2496

Classification: Transportation Engineering Technician  
Department of Transportation

ACTION: GRANTED - With respect to meeting the minimum  
qualifications for Transportation  
Engineering Technician.  
DENIED - Appeal regarding appellant's appointment  
at Range B instead of Range C.

(Rule 211)

MARIA RIVERS, CASE NO. 01-1733

Classification: Workers' Compensation Insurance Technician  
State Personnel Board

ACTION: WITHDRAWN

16. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

- A. ASSISTANT CHIEF, CALIFORNIA HIGHWAY PATROL (CHP)  
The California Highway Patrol is requesting a revision  
to the minimum qualifications for the Assistant Chief,  
CHP, classification

ACTION: Noted

17. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER  
CONSIDERATION

- (1) ASSISTANT DEPUTY DIRECTOR, PROCUREMENT DIVISION  
The Department of General Services proposes to  
allocate the above position to the CEA category.  
The Assistant Deputy Director is responsible for  
managing the day-to-day operations of the  
Procurement Division. The Assistant Deputy  
Director develops objectives and plans, organizes,  
directs, and reviews the activities of the three  
operating branches; the Operations Branch, the  
Business Systems and Support Branch, and the Small  
Business and Disabled Veterans' Business  
Enterprise Services Branch. The department

indicates that the position is at the second organizational level and will report to the Deputy Director.

- (2) SMALL BUSINESS AND DISABLED VETERANS' BUSINESS ENTERPRISE SERVICES BRANCH  
The Department of General Services proposes to allocate the above position to the CEA category. The CEA has statewide responsibility for planning, managing, and administering the Department of General Services, Procurement Division, Small Business (SB) and Disabled Veterans' Business Enterprise (DVBE) Services Branch, and is also responsible for ensuring that qualified SBs and DVBEs are certified and are afforded opportunities to compete for state contracts. The department indicates that the position is at the third organizational level and will report to the Deputy/Assistant Deputy Director.
- (3) BUSINESS SYSTEMS AND SUPPORT BRANCH  
The Department of General Services proposes to allocate the above position to the CEA category. The incumbent will be responsible for the Business Systems and Support Branch, which is comprised of three support sections; Program Support, Business Enhancement Support Team (BEST), and E-Procurement. The incumbent also advises, makes recommendations, and sets policy, establishing and implementing standards of uniform practices for the effective delivery of Procurement Division's statewide programs. The department indicates that the position is at the third organizational level and will report to the Deputy/Assistant Deputy Director.
- (4) OPERATIONS BRANCH  
The Department of General Services proposes to allocate the above position to the CEA category. The incumbent will be responsible for the Operations Branch, which delivers the Division's core business products and services. The incumbent advises, makes recommendations, and sets policy and priorities for the statewide Acquisitions, Materials Management, and Records Management programs and operations. The department indicates that the position is at the third organizational level and will report to the Deputy/Assistant Deputy Director.

(5) CHIEF OF FIELD OPERATIONS

The California State Lottery proposes to allocate the above position to the CEA category. The Chief of Field Operations is a key member of the Director of Sales Management Staff and may serve as the Assistant Director of Sales in the absence of the incumbent. The position is responsible for the development, management and implementation of Lottery programs, policies and procedures regarding statewide sales activities. The department indicates that the position is at the third organizational level and will report to the Director of the Sales Division.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW CEA POSITIONS

(1) ASSISTANT CHIEF DEPUTY DIRECTOR

The Department of Alcoholic Beverage Control's request to allocate the above position to the CEA category has been approved August 30, 2001, for a period of up to one year, or until the Governor's appointments are made, whichever is less.

(2) HOSPITAL ADMINISTRATOR, SECURE TREATMENT FACILITY,  
COALINGA

The Department of Mental Health's request to allocate the above position to the CEA category has been approved effective August 30, 2001.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. RICHARD C. TOBY, CASE NO. 00-1572P. Appeal from dismissal. Department of Developmental Services. (Oral argument held July 10, 2001).

NO ACTION

2. ROBERT EDWARDS, CASE NO. 00-3080. Appeal from discrimination complaint. Department of Corrections. (Oral argument held August 7, 2001).

ACTION: On October 2, 2001, Board adopted decision dismissing the discrimination/retaliation.

VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.

3. PAUL RODRIQUEZ, CASE NO. 00-1580. Appeal from demotion. Department of Corrections. (Oral argument held September 6, 2001).

NO ACTION

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.



Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on October 2, 2001.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Alvarado, Elkins, Bos, Carpenter, Harrigan - Aye.